

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES MARSHALL,)	
)	
Plaintiff,)	
v.)	C.A. No. 10-169 ERIE
)	
RAYMOND SOBINA, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Plaintiff's complaint was received by the Clerk of Court on July 13, 2010, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

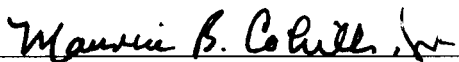
Presently before the Court are: 1) a partial motion to dismiss filed by the Commonwealth Defendants (Doc. 24); and 2) a motion to dismiss filed by defendants Baker, Telega, Gilreath and Mowry (Doc. 32). In her Report and Recommendation (Doc. 53) dated September 16, 2011, Magistrate Judge Baxter recommended that the motion to dismiss filed by the Commonwealth Defendants be granted in part and denied in part and that the motion to dismiss filed by defendants Baker, Telega, Gilreath and Mowry be denied. The parties were given fourteen days to file written objections. No objections have been filed.

After de novo review of the pleadings and documents in the case, together with the report and recommendation, we adopt Magistrate Judge Baxter's September 16, 2011 R&R as the Opinion of the Court.

AND NOW, this 4th day of October, 2011 IT IS HEREBY ORDERED that said report and recommendation is adopted as the Opinion of the Court. The Motion to Dismiss filed by

the Commonwealth Defendants (Doc. 24) is GRANTED IN PART and DENIED IN PART. In particular, it is GRANTED as to all claims against Defendants Robertson and Overton and as to the deliberate indifference claims against Defendant Sobina. It is DENIED as to the claims against Defendants Lucas, McConnell, and Breckenridge and as to the retaliation claims against Defendant Sobina. The Clerk of Courts is hereby DIRECTED to terminate Defendants Robertson and Overton from this action.

IT IS FURTHER ORDERED THAT the Motion to Dismiss filed by Defendants Baker Telega, Gilreath and Mowery (Doc. 32) is DENIED.


Maurice B. Cohill, Jr.
United States District Judge

cc: Hon. Susan Paradise Baxter
U.S. Magistrate Judge

all parties of record _____